

NSC INTERAGENCY TASK FORCE ON THE LAW OF THE SEA

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NSC-D/LOS # 374

MEMORANDUM

May 15, 1975

Fishing

UNCLASSIFIED

TO: Members of the LOS Executive Group

SUBJECT: Congressional Testimony by Thomas Clingan

Attached for your clearance and comments is the draft testimony to be given by Thomas Clingan before the House Committee on Merchant Marine and Fisheries, Subcommittee on Fisheries and Wildlife Conservation and the Environment on May 19, 1975.

Please phone your comments and clearance to me (632-8232) or Myron Nordquist (632-2658) by COB Friday, May 16.



Otho Eskin
Staff Director

Attachment:

A/S

State Dept. review completed

STATEMENT BY
THE HONORABLE THOMAS A. CLINGAN, JR.
BEFORE THE
HOUSE MERCHANT MARINE AND FISHERIES
COMMITTEE
MONDAY, MAY 19, 1975

Fisheries

Mr. Chairman,

Let me first express my appreciation to you for providing this opportunity to share with you my preliminary views concerning the recently concluded third session of the United Nations Law of the Sea Conference. Ambassador Moore has commented on the results in a comprehensive way, so with your permission, I would like to restrict my comments today primarily to the question of fisheries.

At its 55th plenary meeting on Friday, April 18, the Conference requested the Chairman of each of the three main committees to prepare a single negotiating text covering the subjects entrusted to his committee. The President of the Conference indicated that these texts should take into account all formal and informal discussions which had transpired, and that they should not prejudice the position of any delegation. The resulting "Informal Single Negotiating Text" was delivered to the various delegations on the final day of the Conference, thus the NSC Interagency Task Force on the Law of the Sea has not yet had the opportunity to assess the document and review our options. Accordingly,

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my comments must be of a very preliminary nature.

The single negotiating text must be viewed as a procedural device providing the basis for further negotiations, and is not a negotiated text or an agreed compromise. It does not affect any nation's national position. Thus, with respect to fisheries as well as other issues, it must be viewed as amendable in future work sessions. However, as Ambassador Moore has indicate, the significance of the text should not be overlooked. Its roots are in the negotiations, and it is not to be seen as arbitrary or without substance. In some areas it reflects broadly shared views.

Negotiations regarding fisheries issues were conducted at a more intensive level than in previous sessions of the Conference, and they built upon a framework of prior consultations among nations, both of a bilateral and small multilateral character. Much of the work product in the unified text was the result of discussions among a group of about 30 nations working under the guidance of Ambassador Jens Evensen of Norway, while at the same time reflecting the efforts of similar negotiating groups. With regard to the latter, the text seeks to take into account the needs of landlocked and geographically disadvantaged states and, in general, the

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As was our hope, the unified negotiating text contains articles on the utilization of coastal species and separate treatment for highly migratory and anadromous species, primarily tuna and salmon. These articles will require careful study and must be analyzed in conjunction with the entire text to make a proper judgment as to their value and overall negotiability. I can comment on a few items on a very preliminary basis, however, First, the fisheries articles read as a whole have a strong tilt in the direction of advancing the interests of coastal states. This overall inclination would tend to strengthen our own position regarding our coastal fisheries.

While the concept of full utilization as advocated by the United States has been in part retained, the coastal state has a clear preference in coastal stocks to the limit of its harvesting capacity not to exceed the maximum yield.

Next, I should like to point out that the salmon article appearing in the text was widely discussed both among states in whose waters the fish originate and states fishing for salmon. The text appears to have broad support within that group, and it represents a careful balancing of the interests

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of all of the states involved in the Atlantic as
well as the Pacific fisheries.

The tuna article is perhaps the most dis-
appointing of all of the fisheries articles in
terms of reflecting our national interest. That
article calls for the establishment of appropriate
international organizations in each region and requires
all states to participate in their work. However
the article also provides for coastal state prefer-
ences to the limit of harvesting capacities, and
there is little by way of guarantees or protections
for traditional fishing in these various areas.
Nevertheless, it is our view that we are probably
better protected by having a single text to be further
negotiated than we would have been had there been no
article on tuna at all.

In addition to these major articles, Mr.
Chairman, there are provisions in the unified text
giving coastal states the same rights over sedentary
species on the continental shelf as presently pro-
vided for in the continental shelf convention of 1958,
and an article setting forth special rules for
cooperation among states bordering on enclosed or
semi-enclosed seas regarding living resources.

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There are also articles calling for protection for marine mammals.

As you are aware, Mr. Chairman, the next meeting of the conference will be an eight week session in New York beginning March 29, 1976. During the intervening period much work will have to be done. Initially, the executive branch will undertake an extensive review and assessment of the informal single negotiating text with a view toward establishing the options open to us and the most profitable way we can spend the months available to us. Following such a review, I would appreciate the opportunity to appear before you once again to discuss in more detail our assessment. As Ambassador Moore has stated, our review will necessarily take into account the views of Congress, and our evaluation will be an objective one. It continues to be our desire to work closely with this committee and the Congress in moving toward a successful solution to our many problems. In this regard, let me join with Ambassador Moore in expressing my appreciation for the help and assistance of the many members who visited us in Geneva, and, indeed, for the support of this committee in all of our work. While we may have differed on questions of timing, our objectives in achieving the maximum benefit for our fisheries,

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consistent with sound principles of conservation, have never been different from yours. Your continued support of these objectives will enable us to carry forth constructive work during the next weeks and months.

Thank you, Mr. Chairman.